
Subject:

DATE: 07/06/99

Sunset Review: 07/06/02

EARLY COMPLAINT RESOLUTION PROGRAM (ECRP)

1. PURPOSE. To establish the pilot Early Complaint Resolution Program (ECRP). This program is designed to help parties involved in the Equal Employment Opportunity (EEO) complaint process resolve their differences through the use of Alternative Dispute Resolution (ADR) techniques, primarily during the pre-complaint/counseling stage of the process. Participation in the ECRP does not jeopardize an aggrieved party's right to pursue formal EEO procedures if no resolution of the dispute is achieved.

2. SCOPE.

a. All Bureau employees, former employees, and applicants for employment may participate in this program. With respect to bargaining unit employees, if the negotiated agreement contains provisions which differ from any contained in this directive, the negotiated provisions will prevail.

b. This pilot program shall remain in effect for a period of 18 months, after which the program will be evaluated to determine whether it should continue, be modified, or be discontinued. The EEO Officer shall have the authority to extend the pilot program for an additional period of time if the data collected is not sufficient to determine whether the program has met its stated objectives. Likewise, if the review/evaluation determines the program to have successfully met the objectives, the ECRP will be continued indefinitely.

3. AUTHORITY.

- a. Civil Rights Act of 1991 (Pub. L. 102-166).
- b. Americans with Disabilities Act of 1990 (42 U.S.C. ' 12212).
- c. Age Discrimination in Employment Act (Pub. L. 90-202, as amended by Pub. L. 93-259).

4. REFERENCES.

Equal Employment Opportunity Regulations (29 C.F.R. Part 1614).

5. DEFINITIONS.

a. Aggrieved Party. The individual who has contacted an EEO counselor alleging some form of prohibited discrimination.

b. Alternative Dispute Resolution (ADR). The process by which parties to a dispute attempt to resolve their differences by other than traditional formal proceedings, usually with the assistance of neutral third parties.

c. Counseling, Informal, or Pre-Complaint Stage of EEO Process. These terms are often used interchangeably to refer to the stage of the EEO complaint process initiated by an aggrieved party's contact with an EEO counselor; the stage of the EEO process which precedes the formal filing of an EEO complaint. This stage is usually 30 days, but may be extended an additional 60 days to continue resolution efforts, if the aggrieved party and EEO Officer agrees.

d. Day. Calendar day, unless otherwise specified.

e. EEO Official. The EEO Officer, EEO Complaints Manager (Artesia), Senior Mediator, or EEO Counselors. Many of the tasks involved in this program may be performed by one or more of the named officials, depending on the circumstances. However, the EEO Officer has ultimate responsibility for ensuring that the tasks are performed appropriately.

f. Management Official. The FLETC official with the authority to settle the EEO concern.

g. Mediation. A confidential, voluntary process in which a neutral third party, the mediator, helps the parties reach an agreement.

h. Mediator. A neutral third party who assists in identifying the underlying causes of the concern, assists in helping the parties to understand each other and work together in developing a mutually satisfactory resolution of a dispute, and/or provides a neutral evaluation of the case. The mediator may be a Federal Government employee mediator from another agency, a designated FLETC mediator, or an outside professional mediator. The mediator has no power to impose a decision on the parties. Additionally, mediators will be available to assist in resolving conflicts between bargaining unit members at the written request of a Union steward.

6. POLICY. It is the FLETC's policy to use ADR techniques, primarily mediation, to resolve EEO concerns at the earliest possible stage in the EEO complaint process. Accordingly, requests for EEO counseling will be evaluated to determine whether the issues presented at the pre-complaint stage would be appropriate for early resolution efforts. In order to be considered for participation in the ECRP, the concern must allege prohibited discrimination on the basis of race, color, sex, religion, national origin, age, physical or mental disability, or reprisal for engaging in prior EEO activity. The FLETC's ECRP will utilize the process contained in the corresponding standard operating procedures in order to ensure consistency of program implementation.

7. OBJECTIVES OF THE ECRP.

a. Expedite resolution of discrimination concerns at the earliest possible stage in the process.

b. Define areas of agreement and clear up misunderstandings.

c. Reduce costs associated with processing EEO complaints, including intangible costs, such as lowered morale or productivity; prevent litigation; and rebuild trust between the parties.

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- d. Reduce stress and improve relationships.
- e. Promote creative problem-solving.

8. RESPONSIBILITIES. The Director of the FLETC has ultimate authority and responsibility for the Bureau's EEO Program. Specific portions of this authority and responsibility are hereby redelegated to various EEO officials, as follows:

a. The EEO Officer has responsibility for the overall administration and oversight of the EEO Early Complaint Resolution Program (ECRP). The determination as to who shall serve as mediator will be made by the EEO Officer in consultation with the employee and the appropriate management official and/or their respective representatives. Additionally, the EEO Officer has responsibility for the following:

- (1) Providing technical oversight and supervision of the program.
- (2) Establishing training requirements.
- (3) Developing sources of third party neutrals and participating in selection of neutrals.
- (4) Providing administrative support in administering the program.
- (5) Maintaining liaison with and reporting to the Director on program developments.
- (6) Collecting data and evaluating the program.
- (7) Preparing reports on program activities.
- (8) Reviewing settlement proposals/agreements.

b. The EEO Complaints Manager (Artesia)/Senior Mediator (Glynco) have responsibility for:

- (1) Developing sources of third party neutrals in their respective areas.
- (2) Assisting EEO counselors in evaluating whether issues presented during the pre-complaint process appear suitable for ADR efforts.
- (3) Recommending to the EEO Officer those cases which are deemed suitable for the ECRP.
- (4) Providing logistical and technical support in their respective areas for mediation

and other types of meetings designed to facilitate resolution of EEO concerns.

(5) Explaining the operation of the ECRP to FLETC officials and employees.
(6) Ensuring that counselors receive appropriate training in relevant aspects of ADR and in the specific features of the ECRP.

(7) Monitoring the progress of mediation efforts and reporting such efforts in their progress reports to the EEO Officer.

c. EEO Counselors have responsibility for:

(1) Conducting pre-complaint counseling activities and preparing counseling reports.

(2) Explaining the operation of the ECRP to complainants and managers.

(3) Conferring with the EEO Officer/EEO Complaints Manager (Artesia)/Senior Mediator as to whether an issue or concern would be suitable for the ECRP.

(4) Assisting the EEO Complaints Manager (Artesia)/Senior Mediator in arranging for meetings designed to facilitate resolution of EEO concerns.

(5) Providing the EEO Officer/EEO Complaints Manager (Artesia) with periodic updates on cases in the ECRP program for which they are responsible.

d. Third party neutrals/mediators are responsible for:

(1) Revealing any potential conflict of interest they may have, however remote, to the parties.

(2) Reviewing any relevant background materials.

(3) Describing the mediation process or other processes of dispute resolution to the participants.

(4) Conducting the dispute resolution session.

(5) If requested, assisting the participants in developing a settlement agreement.

9. OFFICE OF PRIMARY INTEREST (OPI). EEO Office, Office of the Director.

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W. Ralph Basham
Director